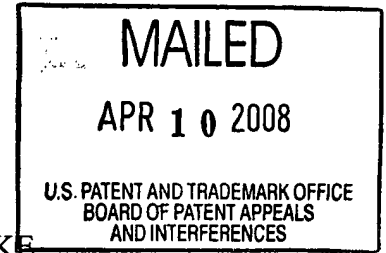


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: SCOTT SMYERS AND HAROLD LUDTKE



Application No. 09/608,617

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 10, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

REPLY BRIEF

A Reply Brief was filed on December 20, 2007. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208.

INFORMATION DISCLOSURE STATEMENT

An Information Disclosure Statement was filed December 20, 2007. There is no indication on the record that the Information Disclosure Statement was considered by the

Examiner. MPEP § 609 requires the Examiner to consider any Information Disclosure Statement filed by Applicant if timely submitted. A written communication notifying appellant of the Examiner's consideration is required.


CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) consider and acknowledge the Reply Brief filed December 20, 2007, as indicated above;
- 2) consider and acknowledge the Information Disclosure statement dated December 20, 2007; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES


DALE M. SHAW
Chief Appeals Administrator
(571) 272-9797

DMS/tsj

Application No. 09/608,617

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